

Message Text

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ACTION DLOS-06

INFO OCT-01 IO-13 ISO-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10

FEA-01 ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05 JUSE-00

L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01 PA-01 PM-04

PRS-01 SP-02 SS-15 USIA-06 SAL-01 OIC-02 (ISO) W

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FROM US DEL LOS

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS INFORMAL PLENARY ON DISPUTE SETTLEMENT AUGUST 24.

1. INFORMAL PLENARY AUGUST 24 CONTINUED DEBATE ON ARTICLE 18 (EXCEPTIONS). THREE PRINCIPAL APPROACHES, DESCRIBED IN PARAS . 2, 3 AND 4 THIS TEL., TO ARTICLE 81, PARA. 1 (EXCEPTIONS RELATING TO THE ECONOMIC ZONE) EMERGED FROM FULL DAY'S DEBATE.

2. NETHERLANDS AMENDMENT (REPORTED SEPTEL) GAINED SUPPORT FROM SWITZERLAND, AUSTRIA, SINGAPORE, ITALY, FRANCE, SWEDEN AND FRG. IN ADDITION, MADAGASCAR, ECUADOR, URUGUAY AND PERU SPOKE OF NETHERLANDS PROPOSAL AS A CONSTRUCTIVE CONTRIBUTION EVEN WHILE THEY TOOK COASTAL STATE APPROACH DESCRIBED PARA.

4. BELOW. URUGUAY EXPLAINED THAT THE FIRST PART OF THE NETHERLANDS PROPOSAL IS COMPATIBLE WITH THEIR OWN APPROACH (I.E.

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GEOGRAPHICAL RATHER THEN FUNCTIONAL EXCLUSION).

3. JAPAN, US, GDR, AND POLAND GENERALLY SOUGHT TO RETAIN STRUCTURE OF ART. 18 OF THE RSNT WITH BROADER EXCEPTIONS IN PARA. 1, SUBPARAS. (A) AND (C). JAPAN SOUGHT TO DELETE ENTIRE PARA. 1 IN PRINCIPLE BUT SUGGESTED FOLLOWING AMENDMENTS IN CASE IT IS RETURNED: LIMIT ITS APPLICATION TO SECTION II OF PART IV, NOT ENTIRE CONVENTION; THUS ALLOWING CONCILIATION OF ALL SHIPMENTS IN PARA. 1(A), REFER TO NON-COMPLIANCE WITH THE CONVENTION RATHER THAN VIOLATION OF OBLIGATIONS; REPLACE QTE SUBSTANTIVE RIGHTS SPECIFICALLY ESTABLISHED UNQTE WITH QTE THE RIGHTS AND INTERSTS OF OTHER STATES AS PROVIDED FOR IN THE PRESENT CONVENTION UNQTE. US STATEMENT RECALLED HISTORY OF THIS ARTICLE WITH EMPHASIS ON HOW AT EACH STAGE MORE DISPUTES WERE EXCLUDED FROM COMPULSORY PROCEDURES. US SOUGHT TO CHANGE LAST CLAUSE IN SUBPARA. (A) TO REFER TO SUBSTANTIVE RIGHTS QTE PROVIDED FOR UNQTE IN THIS CONVENTION, TO ADD MARINE SCIENTIFIC RESEARCH TO SUBPARA. (C), AND TO ADDS A NEW SUBPARA. TO ALLOW COMPULSORY PROCEDURES TO DEAL WITH CLAIMS THAT A COASTAL STATE HAS VIOLATED ITS OBLIGATIONS UNDER THE CONVENTION BY FAILING TO COMPLY WITH ITS PROVISIONS RELATING TO THE CONSERVATION AND UTILIZATION OF LIVING RESOURCES. POLAND AND GDR SUPPORTED US CONCEPT ON LIVING RESOURCES. SOME OF THE EUROPEANS SUPPORTING NETHERLANDS PROPOSAL INDICATED THEY COULD COMBINE PARTS OF IT WITH EXISTING ARTICLE, AS IN FRG SUGGESTION TO ADD QTE ABOUSE OF RIGHTS TO THE DETRIMENT OF ANOTHER STATE UNQTE. TO ART. 18, PARA. 1(A).

4. COASTAL STATES OPENED WITH MEXICAN STATEMENT ON BEHALF OF COASTAL STATES GROUP PROPOSING DELETION OF LAST PHRASE IN PARA. 1(A) AND PLACING FULL STOP AFTER QTE PIPELINES UNQTE. RATHER THAN A COMPLETE PICTURE OF COASTAL STATE APPROACH, THIS WAS MERELY THE TIP OF THE ICEBERG. ALTHOUGH VENEZUELA CONFINED ITSELF TO SUPPORTING THAT MEXICAN STATEMENT, ECUADOR WENT ON TO SAY THAT EXCLUSIVITY OF THE ECONOMIC ZONE MEANS THAT ONLY THE COASTAL STATE'S NATIONAL COURTS HAVE JURISDICTION RESPECTING THE ZONE AND THAT ANY EXCEPTIONS MUST BE AGREED TO BY THE COASTAL STATE UNILATERALLY OR BY SPECIAL AGREEMENT. ECUADOR COULD ACCEPT PARA. 1(A) WITH MEXICAN AMENDMENT, AND ADDITION OF QTE OTHER LEGITIMATE

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INTERNATIONAL USES RELATING TO NAVIGATION OR COMMUNICATIONS, UNQTE, BUT WOULD NOT ACCEPT CDS FOR SCIENTIFIC RESEARCH DISPUTES. ARGENTINA THEN SUPPORTED MEXICO AND ECUADOR AND PROPOSED NEW CHAPEAU TO PARA. 1 AS FOLLOWS: QTE COMPULSORY DISPUTE SETTLEMENT PROCEDURES PROVIDED FOR IN THE PRESENT CONVENTION SHALL NOT APPLY TO DISPUTES THAT MAY ARISE IN RELATION TO THE EXERCISE BY A COASTAL STATE OF ITS RIGHTS IN THE MARITIME AREAS UNDER ITS SOVEREIGNTY OF JURISDICTION

UNQTE. CHILE ADDED THAT IT PREFERS A GEOGRAPHICAL EXCLUSION AND NOT RPT NOT A FUNCTIONAL EXCLUSION AS IN RSNT. MADA-GASCAR AND INDIA SOUGHT TO CONFINE PARA. 1 TO THE CHAPEAU WITH NO RPT NO EXCEPTIONS. URUGUAY LISTED IN SYSTEMATIC MANNER ALL LATIN POSITIONS.

5. A FEW SPEAKERS DID NOT FALL INTO ABOVE PRINCIPAL APPROACHES. GREECE SOUGHT A NEW PARA. IN ART. 18 TO REQUIRE ADJUDICATION OF QUESTIONS RELATED TO THE APPLICATION OF EQUITY OR EQUITABLE PRINCIPLES. CYPRUS INSISTED CDS APPLY TO DELIMITATION QUESTIONS ON THE BASIS OF THE MEDIAN LINE. SPAIN WISHED TO DELETE LAST PHRASE OF PARA . 1(A) AND REPLACE IT WITH QTE OR WHICH HAS SERIOUSLY VIOLATED OTHER OBLIGATIONS LAID DOWN IN THE PRESENT CONVENTION UNQTE. ALGERIAN SOUGHT TO LIMIT CHAPEAU OF PARA. 1 TO SOVEREIGN RIGHTS (DELETING REFERENCE TO EXCLUSIVE RIGHTS OR EXCLUSIVE JURISDICTION) AND SEEKING FULL PROTECTION FOR RIGHTS ACCORDED TO LL/GDS BECAUSE ONE OUGHT NOT PROVIDE RIGHTS WITHOUT JURIDICAL PROTECTION FOR THEM. ALGERIA ALSO SOUGHT TO DELETE QTE SUBSTANTIVE UNQTE AND QTE IN FAVOR OF OTHER STATES UNQTE FROM LAST PHRASE IN PARA. 1(A) ; AND TO ADD IN (C) A REFERENCE TO THE RIGHTS OF AUTHORITY. FRG PROPOSED THE ADDITION OF NEW SUBPARA. (D) QTE WHEN DISPUTE RELATES TO THE INTERPRETATION OR APPLICATION OF ARTICLE 47 OF PART II OF THE PRESENT CONVENTION UNQTE.

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